IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 353 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JETHALAL SHANKARLAL PATHAK

Versus

KANUBHAI SANKALBHAI (A M T S BUS DRIVER)

Appearance:

MR ASHUTOSH R BHATT for Petitioner

MR HS MUNSHAW for Respondent No. 1, 2

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.C.PATEL

Date of decision: 19/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. This is an appeal under Section 173 of the Motor Vehicles Act at the instance of the original claimant challenging the judgment and award of the Motor Accident Claims Tribunal (Main) at Ahmedabad in respect of the award passed under Section 168 of the Motor Vehicles Act.

2. The learned counsel for the appellant made it clear at the commencement of the hearing of the present appeal that he presses the appeal for enhancement of the compensation only in respect of the amount awarded under the Head of Medical Expenses/Medicines and Treatment.

3. We have heard the learned counsel for the respective parties extensively in respect of their respective submissions, we have examined the impugned judgment and award carefully with the assistance of the learned counsel for the parties, and we have also examined such evidentiary material to which our attention has been drawn.

4. As a result of the hearing and discussion, the learned counsel for the respective parties have arrived at a consensus on the basis of which they convey to the court that the court may determine the additional amount of compensation which may be awarded to the appellant claimant on the basis of their submissions and the evidentiary material on record, without going into the reasons for arriving at the aforesaid figure.

5. Accordingly, we have applied our mind to the facts of the case, and as aforesaid, we have examined the controversy before us in the perspective of the submissions made and also having regard to the evidentiary material on record.

6. As a result of this exercise, we hold and direct that the appellant - original claimant shall be entitled to an additional amount of Rs.22,000/-, together with interest at the rate of 9% from the date of filing of the claim petition, with proportionate costs.

7. The impugned judgment and award shall be modified accordingly and only to the aforesaid extent.

8. The present appeal is, therefore, partly allowed in the aforesaid terms with no orders as to costs.

9. Decree accordingly.

(Y.B. Bhatt, J.)

(M.C. Patel, J.)

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